

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**RICHARD JAMES AMARO**

3181 Mission Street, Unit 137  
San Francisco, CA 94110

Registered Nurse License No. 584536

Respondent.

Case No. 2009-187

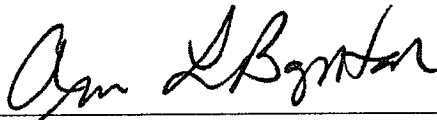
OAH No. 2009060461

**DECISION**

The attached proposed decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on **January 17, 2010**

IT IS SO ORDERED this **17th** day of **December, 2009**.



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President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

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In the Matter of the Accusation Against:

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**PROPOSED DECISION**

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on September 23, 2009.

Deputy Attorney General Leslie E. Brast represented complainant,<sup>1</sup> the Executive Officer of the Board of Registered Nursing.

John L. Fleece, Attorney at Law, represented Richard James Amaro, who was present.

The matter was submitted for decision on September 23, 2009.

**SUMMARY AND ISSUE**

Respondent stipulated at hearing to the truth of the factual allegations (with one exception) and to each of the six causes for discipline. Respondent presented evidence of his rehabilitation from drug and alcohol abuse and requests that he be permitted to continue to practice nursing while on probation to the board.

**FACTUAL FINDINGS**

1. On July 31, 2001, the Board of Registered Nursing issued Registered Nurse License No. 584536 to respondent Richard James Amaro. The license has been in full force and effect at all times relevant to this proceeding. The license will expire on January 31, 2011, unless it is renewed.

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<sup>1</sup> Ruth Ann Terry, M.P.H., R.N., was the Executive Officer when the accusation was filed. Louise Bailey, M.Ed., R.N., is the current Interim Executive Officer.

### *Stipulated Factual Findings*

2. Respondent admits to the truth of all the factual allegations in the accusation with the exception of line 13 of paragraph 20. The following Factual Findings are based on respondent's stipulation.

3. During July and August 2007, while working as a registered nurse at NorthBay Medical Center (NBMC) in Fairfield, California, respondent obtained excessive doses of controlled substances for patient administration by accessing the hospital's Pyxis,<sup>2</sup> a medication dispensation system. Respondent did not document or otherwise account for the administration or disposition of the controlled substances. The circumstances of these events are as follows:

#### Patient 597110<sup>3</sup>

a. On July 27, 2007, Patient 597110, who was intubated and comatose, had a physician's order for Morphine Sulfate 1 mg IVP (intravenous push) for moderate pain. At approximately 4:00 p.m. respondent documented that Patient 597110 had a pain level of zero out of ten. Respondent did not use the FLACC<sup>4</sup> pain assessment tool.

b. On or about July 27, 2007, at approximately 8:00 p.m., respondent documented assessment of the patient's pain level as zero out of ten. At approximately 8:30 p.m., respondent documented administration of Morphine Sulfate 2 mg IVP. Morphine Sulfate had been ordered for severe pain. No post narcotic medication administration assessment or reassessment was documented.

c. On July 27, 2007, at approximately 9:45 p.m., respondent documented administration of Morphine Sulfate 2 mg IVP. He did not document any assessment of the patient's pain level. No post narcotic medication administration assessment or reassessment was documented.

d. On July 28, 2007, at approximately 2:00 a.m., respondent documented administration of Morphine Sulfate 2 mg IVP. Respondent documented assessment of the patient's pain level as zero out of ten. No post narcotic medication administration assessment or reassessment was documented.

e. On July 28, 2007, at approximately 4:00 a.m., respondent documented assessment of the patient's pain level as zero out of ten. Respondent documented the character of the patient's pain as "aching." Patient 597110 remained comatose at the time.

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<sup>2</sup> Pyxis is a brand name of an automated medication dispensing and supply system.

<sup>3</sup> Patients are identified by their medical record number in order to protect their privacy.

<sup>4</sup> FLACC is an observational tool for quantifying pain behavior of non-verbal or cognitively-impaired patients based on facial expression, leg movement, activity, cry, and ability to be consoled.

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f. On July 28, 2007, at approximately 4:40 a.m., respondent documented administration of morphine Sulfate 2 mg IVP. He did not document any assessment of the patient's pain level. No post narcotic medication administration assessment or reassessment was documented.

g. On July 28, 2007, at approximately 6:00 a.m., respondent documented assessment of the patient's pain level as zero out of ten. At approximately 6:40 a.m., respondent documented administration of Morphine Sulfate 2 mg IVP. Respondent did not document assessment or reassessment of the patient's pain level. Respondent documented the patient's level of sedation as "asleep." Patient 597110 remained comatose at the time.

#### Patient 597181

h. On July 27 and 28, 2007, respondent obtained from the hospital's Pyxis approximately 14 mg of Dilaudid IV for administration to Patient 597181 over the course of 11 hours. The patient had an order for Dilaudid 2 mg for severe pain every two hours. Respondent did not document or otherwise properly account for any of the 14 mg of Dilaudid. Respondent's Pyxis withdrawals were as follows:

1. On or about July 27, 2007, at approximately 8:13 p.m., respondent withdrew Dilaudid 2 mg IV.
2. On or about July 27, 2007, at approximately 9:15 p.m., respondent withdrew Dilaudid 2 mg IV.
3. On July 27, 2007, at approximately 10:29 p.m., respondent withdrew Dilaudid 2 mg IV.
4. On July 28, 2007, at approximately 1:15 a.m., respondent withdrew Dilaudid 2 mg IV.
5. On July 28, 2007, at approximately 3:58 a.m., respondent withdrew Dilaudid 2 mg IV.
6. On July 28, 2007, at approximately 6:42 a.m., respondent withdrew Dilaudid 2 mg IV.
7. On July 28, 2007, at approximately 7:20 a.m., respondent withdrew Dilaudid 2 mg IV.

Patient 226230

i. On August 4, 2007, at approximately 3:45 p.m., respondent documented in his nursing narrative notes that Patient 226230 was slightly anxious. He did not document any assessment of the patient's pain level. At approximately 4:00 p.m., respondent documented administration of Morphine Sulfate 1 mg IVP. No post-narcotic medication administration assessment or reassessment was documented.

j. On August 4, 2007, at approximately 6:00 p.m., respondent documented administration of Morphine Sulfate 1 mg IVP and documented assessment of the patient's pain level as zero out of ten.

k. On August 4, 2007, at approximately 6:30 p.m., respondent documented administration of Fentanyl 25 mcg IVP. No pain assessment was documented. No post narcotic medication administration assessment or reassessment was documented.

l. On August 4, 2007, at approximately 7:45 p.m., respondent documented administration of Fentanyl 25 mcg IVP. No pain assessment was documented. No post narcotic medication administration assessment or reassessment was documented.

m. On August 4, 2007, at approximately 9:45 p.m., respondent documented administration of Fentanyl 25 mcg IVP. No pain assessment was documented. No post narcotic medication administration assessment or reassessment was documented.

n. On August 4, 2007, at approximately 10:30 p.m., respondent documented administration of Fentanyl 25 mcg IVP. No pain assessment was documented. No post narcotic medication administration or reassessment was documented.

Patient 568370

o. On August 4, 2007, at approximately 4:45 p.m., Patient 568370 was admitted to the hospital's Intensive Care Unit. At approximately 5:00 p.m., respondent documented administration of Dilaudid 2 mg IVP. Patient 568370 did not have a physician's order for Dilaudid. Respondent did not document any assessment of the patient's pain level. No post-narcotic medication administration assessment or reassessment was documented.

p. On August 4, 2007, at approximately 5:15 p.m., respondent documented administration of Morphine Sulfate 2 mg IVP. No pain assessment was documented. No post-narcotic medication administration assessment or reassessment was documented. Respondent did not withdraw the medication from Pyxis.

q. On August 4, 2007, at approximately 7:35 p.m., respondent documented administration of Morphine Sulfate 2 mg IVP. No pain assessment was documented. No post-narcotic medication administration assessment or reassessment was documented. Respondent did not withdraw the medication from Pyxis.

r. On August 4, 2007, at approximately 10:03 p.m., respondent obtained from Pyxis Dilaudid 2 mg for administration to Patient 568370. No pain assessment was documented. Respondent did not document or otherwise properly account for the medication. Patient 568370 did not have a physician's order for Dilaudid.

s. On August 4, 2007, at approximately 11:23 p.m., respondent obtained from Pyxis Dilaudid 2 mg for administration to Patient 568370. No pain assessment was documented. Respondent did not document or otherwise properly account for the medication. Patient 58370 did not have a physician's order for Dilaudid.

4. On August 7, 2007, respondent told a NBMC clinical manager that he had been diverting drugs for several weeks.

5. On August 16, 2007, respondent enrolled in the board's diversion program. He was terminated from the diversion program on March 28, 2008, as a public safety threat, pursuant to Business and Professions Code section 2770.11.

#### *Costs*

6. Complainant certifies that the board has incurred \$6,478.75 in costs to investigate and prosecute this matter. This includes charges from the Department of Justice for time spent by the Deputy Attorney General (\$6,251.5) and the Legal Assistant Team (\$227.25). Respondent does not dispute the reasonableness of these charges.

#### *Evidence re: Rehabilitation*

7. Respondent is 47 years old. He graduated with a Bachelor of Science degree in nursing from Georgetown University in 1995. He worked as a nurse in New York until moving to California in 1999. While in California respondent has worked as a travel nurse, a registry nurse, and as a per diem nurse at St. Mary's Hospital in San Francisco. Respondent worked at NBMC from March 2007 to his termination in August 2007.

8. Respondent has had polysubstance abuse problems since age 16. He completed recovery at age 26, which was followed by eight and one-half years of sobriety. Respondent relapsed at age 35 with alcohol and methamphetamine. He used methamphetamine for a long period of time, with alcohol. Respondent went through a recovery program in 1997 in Minnesota. From 1997 to 2007, respondent had periods of sobriety. Respondent realized he "was in a very dark place" when he diverted controlled substances from NBMC in July and August 2007. Although he did not use the drugs while nursing, he knew it was not safe for him to practice nursing. He has "nothing but regret" for his misconduct.

9. While in the board's diversion program, respondent entered the Betty Ford Center program. Respondent completed 30 days of in-patient treatment from November 16

to December 13, and then entered an on-going program that followed. He left the program on December 27, 2007, after receiving what he felt were derogatory remarks about his sexual orientation. Respondent was drug-tested during the time he was in this program, and had no positive drug tests.

10. Respondent drove to San Francisco and entered the residential recovery program at the Henry Ohloff House. Respondent stayed with this program for ten days, but left because of lack of insurance coverage. Respondent was drug-tested during the time he was in this program, and had no positive drug tests.

11. Respondent entered the Sequoia Center's Intensive Outpatient Program on January 16, 2008, and remained in this program to April 11, 2008. During this program, respondent attended the Professional's Group, lectures, assignment groups, relapse prevention groups, therapy groups, 12-step groups, and one-to-one meetings with a case manager. Respondent was drug-tested during the time he was in this program, and had no positive drug tests.

12. Respondent relapsed by taking nonprescription antidepressants in June 2008.

13. Respondent re-entered the Intensive Outpatient Program at the Sequoia Center on April 20, 2009. He completed the Assignment group and the Relapse Prevention Group. He continues to attend the Professional's Group, therapy group, 12-step group, and one-to-one meetings with a case manager. Laura Osborn, Psy.D. reports that respondent's drug screens from April 20 to August 12, 2009, have been negative.

14. Respondent's primary treating physician is F. Lisa Serman, M.D., M.P.H. Dr. Serman has treated respondent since February 2004. In a letter dated August 25, 2009, she reports that respondent has been free of drug and alcohol since June 12, 2008. Dr. Serman writes:

I have followed his medical conditions through his episodes for substance abuse and intensive treatments over the years. According to my records, Mr. Amaro has been in treatment and free of drugs and alcohol since June of 2008. I am aware of his continued care at the Sequoia Center, a full service treatment program . . . . Mr. Amaro is also under the care of both a psychiatrist and a psychologist. I feel that Mr. Amaro is sincere and motivated to continue treatment and remain drug and alcohol free. He has demonstrated excellent compliance with his scheduled appointments, medications, and care. I believe he will remain motivated and responsible in long-term recovery.

15. Respondent has been undergoing weekly psychotherapy with Louis S. Morello, Ph.D., since April 23, 2009. Dr. Morello is an addiction specialist. In a letter dated August 22, 2009, Dr. Morello writes about respondent:

He has been compliant with meeting weekly and motivated to address personal issues necessary for dealing with the stresses in his life and relapse prevention. Our sessions incorporate the work he is doing in his primary treatment program at Sequoia Hospital; we attempt to enhance the work he does in the cognitive-behavioral and dialectical behavioral workbooks. He is learning effective coping strategies for short-term and long-term recovery.

Rick is very motivated to continue his current treatment regimen, and he understands this is a long-term process. I enjoy working with Rick because of his interest in personal growth and in doing what it takes to improve his life and maintain long-term recovery.

16. Scott M. Lauzé, M.D., has been respondent's treating psychiatrist since April 19, 2009. Dr. Lauzé is an addiction specialist. In a letter dated August 12, 2009, Dr. Lauzé writes:

I am writing in support of Richard Amaro and the re-instatement of his nursing license. . . . [H]e has been highly motivated and engaged in his recovery program. He has been a responsible patient, following instructions with regards to medications for his depression. He has expressed remorse about his past diversion of substances and appears insightful about the nature of his addictive illness and how to effectively prevent future difficulties. He is actively engaged in an outpatient addiction treatment program at Sequoia Center, he attends a men's group, a grief and loss group, a DBT group with Marilyn Foley, individual psychotherapy with Dr. Louis Morello, and psychopharmacological treatment with me.

I think his chances of success at remaining engaged in active recovery are very good. He is eager to begin to give back to the community and make amends by being of service. I think the structure and self-esteem derived from working again will be valuable adjuncts to his current treatment.

17. Respondent has had a sponsor and has attended Alcoholics Anonymous meetings on a regular basis since January 2008. He feels connected to his sponsor and in his 12-step meetings, where he has a service commitment each Thursday.

Respondent's sponsor since January 2008, Stephen E., testified at hearing regarding his hands-on approach to being a sponsor. He confirms that respondent reported his relapse



in June 2008 to him. He confirms that respondent attends meetings daily, and that they have daily contact with each other. They meet regularly to work on the steps. In his opinion, respondent has been very serious about his recovery for the last year, and is not gaming the system.

18. Respondent's last employment as a registered nurse was at Lucile Packard Children's Hospital from June 2008 to March 2009. Respondent is HIV positive and during this time he was placed on three HIV medications in addition to Lexapro and Wellbutrin. (Respondent has since been taken off Lexapro.) Respondent did not pass his trial period at Lucile Packard due to excessive absences. Respondent testified that his absences were not related to substance abuse, but to adverse effects he suffered from HIV medications. There is no evidence which would contradict respondent's version of his employment with Lucile Packard or that shows that respondent was an impaired or incompetent nurse while employed there.

19. Respondent has not worked as a nurse since March 2009. Respondent's employment goal is to return to acute care in a hospital setting. He would also like to return to school to obtain a Master's degree in nursing.

## LEGAL CONCLUSIONS

### *First Cause for Discipline*

1. Findings 2 through 5: Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2762, subdivision (a), together with Business and Professions Code section 2761, subdivision (d), for unprofessional conduct in that he fraudulently procured controlled substances in violation of Health and Safety Code section 11173, subdivision (a).

### *Second Cause for Discipline*

2. Findings 2 through 5: Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2762, subdivision (e), together with Business and Professions Code section 2761, subdivision (d), for unprofessional conduct in that he made false entries on hospital, patient, or other records pertaining to controlled substances.

### *Third Cause for Discipline*

3. Findings 2 through 5: Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2762, subdivision (d), together with Business and Professions Code section 2761, subdivision (d), for unprofessional conduct in that he diverted and possessed without a prescription controlled substances in violation of Business and Professions Code section 4060.

#### *Fourth Cause for Discipline*

4. Findings 2 through 5: Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2762, subdivision (b), together with Business and Professions Code section 2761, subdivision (d), for unprofessional conduct in that he used controlled substances to such an extent or in such a manner to be dangerous or injurious to himself and the public, and to such an extent that it impaired his ability to practice nursing safely.

#### *Fifth Cause for Discipline*

5. Findings 2 through 5: Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2761, subdivision (a)(1), for unprofessional conduct in that he committed acts of gross negligence within the meaning of California Code of Regulations, title 16, section 1442, in connection with his conduct at NBMC.

#### *Sixth Cause for Discipline*

6. Findings 2 through 5: Respondent is subject to disciplinary action pursuant to Business and Professions Code section 2761, subdivision (a), for unprofessional conduct in connection with his conduct at NBMC.

#### *Costs*

7. Finding 6: Business and Professions Code section 125.3 authorizes complainant to request that a licentiate found to have committed a violation of the Nursing Practice Act to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case. The reasonable costs of investigation and enforcement are \$6,478.75. Respondent shall be directed to reimburse the board for these costs.

#### *Other Matters*

8. Over a two-month period respondent committed numerous and serious violations of the Nursing Practice Act following a lengthy history of polysubstance addiction. Respondent violated the position of trust he held as a registered nurse when he diverted from NBMC, and self-administered, controlled substances. Because of the seriousness of respondent's misconduct, the recommended discipline under the board's disciplinary guidelines is license revocation. Respondent bears a very heavy burden of demonstrating sufficient rehabilitation to warrant continued licensure, particularly in view of his lack of success in the board's diversion program.

Respondent had done much in his recovery that is commendable. He has been clean and sober for 16 months. He has completed a six-month drug/alcohol treatment program with the required elements of counseling, random fluid testing, participation in a professional's support group, education about addictive disease, and participation in 12-step

groups. For more than six months, respondent has been undergoing weekly psychotherapy with an addiction specialist, and had been under the treatment of a psychiatrist who is also an addiction specialist. Respondent's treating physicians are working in concert to assist in respondent's recovery, and they each believe that respondent is sincere and motivated in his recovery. Respondent has an active 12-step program, which includes daily attendance at AA meetings and close contact with, and supervision by, his sponsor. All things considered, it is concluded that respondent has demonstrated sufficient evidence of his rehabilitation that the public safety will not be put at risk if he is permitted to retain his nursing license while on probation to the board. He will be required to comply with all terms and conditions regarding substance abuse.

### ORDER

Registered Nurse License No. 584536 issued to respondent Richard James Amaro is revoked. The order of revocation shall be stayed and respondent shall be placed on probation for a period of five (5) years on the following conditions:

Each condition of probation is separate and distinct. If any condition of this order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this order, and all other applications thereof, shall not be affected. Each condition of this order shall separately be valid and enforceable to the fullest extent permitted by law.

1. OBEY ALL LAWS: Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by respondent to the board in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.
2. COMPLY WITH PROBATION PROGRAM: Respondent shall fully comply with the terms and conditions of the probation program established by the board and cooperate with representatives of the board in its monitoring and investigation of his compliance. Respondent shall inform the board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the board, including during any period of suspension.

3. REPORT IN PERSON: During the period of probation, respondent shall appear in person at interviews/meetings as directed by the board or its designated representatives.

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4. RESIDENCY, PRACTICE OR LICENSURE OUTSIDE OF STATE: Periods of residency or practice as a registered nurse outside of California shall not apply toward reduction of this probation time period. Respondent's probation is tolled, if and when he resides outside of California. Respondent must provide written notice to the board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the board if he applies for or obtains a new nursing license during the term of probation.

5. SUBMIT WRITTEN REPORTS: During the period of probation, respondent shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury as required by the board. These reports/declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the board's probation program. Respondent shall immediately execute all release of information forms as may be required by the board or its representatives.

PROVIDE DECISION: Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

6. FUNCTION AS A REGISTERED NURSE: Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the board.

For purposes of compliance with this condition, "engage in the practice of registered nursing" may include, when approved by the board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the board.

If respondent has not complied with this condition during the probationary term but has presented sufficient documentation of his good faith efforts to comply, and if no other conditions have been violated, the board, in its discretion, may grant an extension of respondent's probation period up to one

year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation shall apply.

7. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS:

Respondent shall obtain prior approval from the board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the board all performance evaluations and other employment-related reports as a registered nurse upon request of the board.

Respondent shall provide a copy of this decision to his employer and immediate supervisors prior to commencement of any nursing or other health care-related employment.

In addition to the above, respondent shall notify the board in writing within 72 hours after he obtains any nursing or other health care related employment. Respondent shall notify the board in writing within 72 hours after he is terminated or separated, regardless of cause, from any nursing, or other health care-related employment, with a full explanation of the circumstances surrounding the termination or separation.

8. SUPERVISION: Respondent shall obtain prior approval from the board regarding his level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the board, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- a. Maximum – The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- b. Moderate – The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- c. Minimum – The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

- d. Home Health Care – If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with him as required by the board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the board, periodic, on-site visits to patients' homes visited by respondent with or without respondent being present.

9. EMPLOYMENT LIMITATIONS: Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, for a temporary nurse placement agency, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If respondent is working or intends to work in excess of 40 hours per week, the board may request documentation to determine whether there should be restrictions on the hours of work.

10. COMPLETE REFRESHER COURSE: Respondent, at his own expense, shall enroll in and successfully complete a refresher course or equivalent set of courses as approved by representatives of the board. Respondent is suspended from practice until the required course work is successfully completed, but he may use his license for the limited purpose of completing clinical requirements of the course work.

11. COST RECOVERY: Respondent shall pay to the board costs associated with its investigation and enforcement pursuant to Business and Professions Code

section 125.3 in the amount of \$6,478.75. Respondent shall be permitted to pay these costs in a payment plan approved by the board, with payments to be completed no later than three months prior to the end of the probation term.

12. **VIOLATION OF PROBATION:** If respondent violates the conditions of his probation, the board, after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed revocation of his license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the board.

13. **LICENSE SURRENDER:** During respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender his license to the board. The board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the board. A registered nurse whose license has been surrendered may petition the board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- a. Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- b. One year for a license surrendered for a mental or physical illness.

14. **PHYSICAL EXAMINATION:** Within 45 days of the effective date of this decision, respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the board. If medically determined, a recommended treatment program will be instituted and followed by the respondent, with the physician, nurse practitioner, or

physician assistant providing written reports to the board on forms provided by the board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the board and respondent by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the board is required until the board has notified respondent that a medical determination permits him to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

15. MENTAL HEALTH EXAMINATION: Respondent shall, within 45 days of the effective date of this decision, have a mental health examination, including psychological testing as appropriate, to determine his capability to perform the duties of a registered nurse. The examination must be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the board and respondent by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the board is required, until the board has notified respondent that a mental health determination permits respondent to resume practice. This



period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

16. ABSTAIN FROM PSYCHOTROPIC (MOOD-ALTERING) DRUGS:

Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood-altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the board, in writing and within 14 days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time-limited use of any such substances.

The board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

17. SUBMIT TO TESTS AND SAMPLES: Respondent, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the board approves. The length of time and frequency will be subject to approval by the board. Respondent is responsible for keeping the board informed of his current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when he is not available and ensure that reports are submitted directly by the testing agency to the board, as directed. Any confirmed positive finding shall be reported

immediately to the board by the program and respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the board or any of its representatives, and shall, when requested, submit to such tests and samples as the board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the board files a petition to revoke probation or an accusation, the board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, respondent shall immediately cease practice and shall not resume practice until notified by the board. After taking into account documented evidence of mitigation, if the board files a petition to revoke probation or an accusation, the board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

18. MENTAL HEALTH EXAMINATION - Respondent shall, within 45 days of the effective date of this decision, have a mental health examination, including psychological testing as appropriate, to determine his capability to perform the duties of a registered nurse. The examination must be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the board and respondent by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the board is required, until the board has notified respondent that a mental health determination permits respondent to resume practice. This

period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

19. THERAPY OR COUNSELING PROGRAM - Respondent, at his expense, shall participate in an ongoing counseling program until such time as the board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

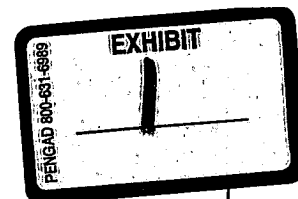
DATED: October 23, 2009



MELISSA G. CROWELL

Administrative Law Judge

Office of Administrative Hearings.



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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2009-187

11 **RICHARD JAMES AMARO**  
3181 Mission Street, Unit # 137  
12 San Francisco, CA 94110  
Registered Nurse License No. 584536

**A C C U S A T I O N**

13  
14 Respondent.

15 Complainant alleges:

16 PARTIES

17 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), brings this Accusation  
18 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
19 Department of Consumer Affairs.

20 2. On or about July 31, 2001, the Board of Registered Nursing issued  
21 Registered Nurse License Number 584536 to Richard James Amaro (Respondent). The  
22 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
23 herein and will expire on January 31, 2011, unless renewed.

24 JURISDICTION

25 3. This Accusation is brought before the Board under the authority of the  
26 following laws. All section references are to the Business and Professions Code (Code) unless  
27 otherwise indicated.

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4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Code section 492 provides, in pertinent part, that successful completion of any diversion program under the Penal Code shall not prohibit any agency from taking disciplinary action against a licensee.

## STATUTORY PROVISIONS

7. Code section 2761 provides, in pertinent part:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

“(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

[9...9]

“(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.”

8. Code section 2762 provides, in pertinent part, that in addition to other acts constituting unprofessional conduct within the meaning of the Nursing Practice Act, it is unprofessional conduct for a licensed nurse under this chapter to do any of the following:

“(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

[9...9]

“(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.”

9. Health and Safety Code section 11173, subdivision (a), provides that “[no] person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

10. Code section 4060 provides:

“No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, [or] a physician assistant pursuant to Section 3502.1 . . .”

11. Code section 2770.11 provides:

“(a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by a committee. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. . .

“(b) If a committee determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the committee shall report the name and license number, along with a copy of

1 all diversion records for that registered nurse, to the board's enforcement program. The board  
2 may use any of the records it receives under this subdivision in any disciplinary proceeding."

### 3 REGULATORY PROVISIONS

4 12. California Code of Regulations, title 16, section 1442, provides:

5 "As used in Section 2761 of the code, 'gross negligence' includes an extreme  
6 departure from the standard of care which, under similar circumstances, would have ordinarily  
7 been exercised by a competent registered nurse. Such an extreme departure means the repeated  
8 failure to provide nursing care as required or failure to provide care or to exercise ordinary  
9 precaution in a single situation which the nurse knew, or should have known, could have  
10 jeopardized the client's health or life."

### 11 COST RECOVERY

12 13. Code section 125.3 provides that the Board may request the administrative  
13 law judge to direct a licensee found to have committed a violation or violations of the licensing  
14 act to pay a sum not to exceed the reasonable investigation and enforcement costs of the case.

### 15 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

16 14. Code section 4021 states:

17 "'Controlled substance' means any substance listed in Chapter 2 (commencing  
18 with Section 11053) of Division 10 of the Health and Safety Code."

19 15. Code section 4022 provides:

20 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for  
21 self-use in humans or animals, and includes the following:

22 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing  
23 without prescription,' 'Rx only' or words of similar import.

24 "(b) Any device that bears the statement: 'Caution: federal law restricts this  
25 device to sale by or on the order of a \_\_\_\_\_,' 'Rx only,' or words of similar import . . .

26 "(c) Any other drug or device that by federal or state law can be lawfully  
27 dispensed only on prescription or furnished pursuant to Section 4006."

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1                   16.     “Morphine Sulfate” is a Schedule II controlled substance as designated by  
2 Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug within the  
3 meaning of Code section 4022.

4                   17.     “Dilaudid” is a brand of hydromorphone hydrochloride, a Schedule II  
5 controlled substance as designated by Health and Safety Code section 11055(b)(1)(K) and a  
6 dangerous drug as defined by Code section 4022. It is a narcotic analgesic.

7                   18.     “Fentanyl” is a Schedule II controlled substance as designated by Health  
8 and Safety Code section 11055, subdivision (c)(8), and a dangerous drug within the meaning of  
9 Code section 4022.

10                                   FACTUAL BACKGROUND

11                   19.     During July and August 2007, while working as a registered nurse at  
12 Northbay Medical Center (NBMC), located in Fairfield, California, Respondent obtained  
13 excessive doses of controlled substances for patient administration by accessing the hospital’s  
14 medication dispensing system (Pyxis),<sup>1</sup> but did not document or otherwise account for the  
15 administration or disposition of such substances. The circumstances are detailed as follows:

16                                   Patient 597110<sup>2</sup>

17                   a.     On or about July 27, 2007, Patient 597110, who was intubated and  
18 comatose, had a physician’s order for Morphine Sulfate 1 mg IVP for moderate pain. At  
19 approximately 4:00 PM, Respondent documented that Patient 597110 had a pain level of 0/10.  
20 Respondent did not use the FLACC<sup>3</sup> pain assessment tool.

21     ///

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23  
24                   1. Pyxis is a brand name for an automated medication dispensing and supply system. A Personal  
25 Identification Number (PIN) code is used to access controlled substances from the system which automatically  
logs all transactions involving the removal of controlled substances, including the names of the person accessing  
the system and the patient for whom the substances were ordered, the date, time, and dosage being obtained.

26                   2. Patients are identified by their medical record numbers to protect their privacy; their names will be made  
27 available upon request during discovery.

28                   3. FLACC is an observational tool for quantifying pain behaviors based on facial expression, leg  
movement, activity, cry, and consolability of non-verbal or cognitively-impaired patients.



1                   b.       On or about July 27, 2007, at approximately 8:00 PM, Respondent  
2 documented assessment of the patient's pain level as 0/10. At approximately 8:30 PM,  
3 Respondent documented administration of Morphine Sulfate 2 mg IVP. Morphine Sulfate had  
4 been ordered for severe pain. No post narcotic medication administration assessment or re-  
5 assessment was documented.

6                   c.       On or about July 27, 2007, at approximately 9:45 PM, Respondent  
7 documented administration of Morphine Sulfate 2 mg IVP. He did not document any assessment  
8 of the patient's pain level. No post narcotic medication administration assessment or re-  
9 assessment was documented.

10                  d.       On or about July 28, 2007, at approximately 2:00 AM, Respondent  
11 documented administration of Morphine Sulfate 2 mg IVP. Respondent documented assessment  
12 of the patient's pain level as 0/10. No post narcotic medication administration assessment or re-  
13 assessment was documented.

14                  e.       On or about July 28, 2007, at approximately 4:00 AM, Respondent  
15 documented assessment of the patient's pain level as 0/10. Respondent documented the  
16 character of the patient's pain as "aching." Patient 597110 remained comatose at the time.

17                  f.       On or about July 28, 2007, at approximately 4:40 AM, Respondent  
18 documented administration of Morphine Sulfate 2 mg IVP. He did not document any assessment  
19 of the patient's pain level. No post narcotic medication administration assessment or re-  
20 assessment was documented.

21                  g.       On or about July 28, 2007, at approximately 6:00 AM, Respondent  
22 documented assessment of the patient's pain level as 0/10. At approximately 6:40 AM,  
23 Respondent documented administration of Morphine Sulfate 2 mg IVP. Respondent did not  
24 document assessment or re-assessment of the patient's pain level. Respondent documented the  
25 patient's level of sedation as "asleep." Patient 597110 remained comatose at the time.

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1                   Patient 597181

2                   h.       On or about July 27 and 28, 2007, Respondent obtained from the  
3 hospital's Pyxis a total of approximately 14 mg of Dilaudid IV for administration to Patient  
4 597181 over the course of approximately 11 hours. The patient had an order for Dilaudid 2 mg  
5 for severe pain every 2 hours. Respondent did not document or otherwise properly account for  
6 any of the 14 mg of Dilaudid. Respondent's Pyxis withdrawals are as follows:

- 7                   1.       On or about July 27, 2007, at approximately 8:13 PM, Respondent  
8                   withdrew Dilaudid 2 mg IV.
- 9                   2.       On or about July 27, 2007, at approximately 9:15 PM, Respondent  
10                  withdrew Dilaudid 2 mg IV.
- 11                  3.       On or about July 27, 2007, at approximately 10:29 PM,  
12                  Respondent withdrew Dilaudid 2 mg IV.
- 13                  4.       On or about July 28, 2007, at approximately 1:15 AM, Respondent  
14                  withdrew Dilaudid 2 mg IV.
- 15                  5.       On or about July 28, 2007, at approximately 3:58 AM, Respondent  
16                  withdrew Dilaudid 2 mg IV.
- 17                  6.       On or about July 28, 2007, at approximately 6:42 AM, Respondent  
18                  withdrew Dilaudid 2 mg IV.
- 19                  7.       On or about July 28, 2007, at approximately 7:20 AM, Respondent  
20                  withdrew Dilaudid 2 mg IV.

21                   Patient 226230

22                   i.       On or about August 4, 2007, at approximately 3:45 PM, Respondent  
23 documented in his nursing narrative notes that Patient 226230 was slightly anxious. He did not  
24 document any assessment of the patient's pain level. At approximately 4:00 PM, Respondent  
25 documented administration of Morphine Sulfate 1 mg IVP. No post-narcotic medication  
26 administration assessment or re-assessment was documented.

27                   j.       On or about August 4, 2007, at approximately 6:00 PM, Respondent  
28 documented administration of Morphine Sulfate 1 mg IVP and documented assessment of the  
patient's pain level as 1/10.

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1 k. On or about August 4, 2007, at approximately 6:30 PM, Respondent  
2 documented administration of Fentanyl 25 mcg IVP. No pain assessment was documented. No  
3 post narcotic medication administration assessment or re-assessment was documented.

4 l. On or about August 4, 2007, at approximately 7:45 PM, Respondent  
5 documented administration of Fentanyl 25 mcg IVP. No pain assessment was documented. No  
6 post narcotic medication administration assessment or re-assessment was documented.

7 m. On or about August 4, 2007, at approximately 9:45 PM, Respondent  
8 documented administration of Fentanyl 25 mcg IVP. No pain assessment was documented. No  
9 post narcotic medication administration assessment or re-assessment was documented.

10 n. On or about August 4, 2007, at approximately 10:30 PM, Respondent  
11 documented administration of Fentanyl 25 mcg IVP. No pain assessment was documented. No  
12 post narcotic medication administration assessment or re-assessment was documented.

13 Patient 568370

14 o. On or about August 4, 2007, at approximately 4:45 PM, Patient 568370  
15 was admitted to the hospital's Intensive Care Unit (ICU). At approximately 5:00 PM,  
16 Respondent documented administration of Dilaudid 2 mg IVP. Patient 568370 did not have a  
17 physician's order for Dilaudid. Respondent did not document any assessment of the patient's  
18 pain level. No post narcotic medication administration assessment or re-assessment was  
19 documented.

20 p. On or about August 4, 2007, at approximately 5:15 PM, Respondent  
21 documented administration of Morphine Sulfate 2 mg IVP. No pain assessment was  
22 documented. No post narcotic medication administration assessment or re-assessment was  
23 documented. Respondent did not withdraw the medication from Pyxis.

24 q. On or about August 4, 2007, at approximately 7:35 PM, Respondent  
25 documented administration of Morphine Sulfate 2 mg IVP. No pain assessment was  
26 documented. No post narcotic medication administration assessment or re-assessment was  
27 documented. Respondent did not withdraw the medication from Pyxis.

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r. On or about August 4, 2007, at approximately 10:03 PM, Respondent obtained from Pyxis Dilaudid 2 mg for administration to Patient 568370. No pain assessment was documented. Respondent did not document or otherwise properly account for the medication. Patient 568370 did not have a physician's order for Dilaudid.

s. On or about August 4, 2007, at approximately 11:23 PM, Respondent obtained from Pyxis Dilaudid 2 mg for administration to Patient 568370. No pain assessment was documented. Respondent did not document or otherwise properly account for the medication. Patient 568370 did not have a physician's order for Dilaudid.

20. On or about August 7, 2007, Respondent told an NBMC clinical manager that he had been diverting drugs for a few weeks. On or about August 16, 2008<sup>7</sup>, Respondent enrolled in the Board's diversion program. He was terminated as a public safety threat on or about March 28, 2008, pursuant to Code section 2770.11, subdivision (b), for non-compliance due to multiple relapses and his refusal to enter residential treatment.

FIRST CAUSE FOR DISCIPLINE

(Fraudulent Procurement of Controlled Substances)

21. Respondent is subject to disciplinary action for unprofessional conduct under Code sections 2762, subdivision (a), and 2761, subdivision (d), in that while working as a Registered Nurse, he obtained controlled substances and/or dangerous drugs by fraud, deceit, misrepresentation, subterfuge, or by the concealment of material facts, in violation of Health and Safety Code section 11173, subdivision (a), as described in paragraphs 19 and 20, above.

## SECOND CAUSE FOR DISCIPLINE

(False Entries)

22. Respondent is subject to disciplinary action for unprofessional conduct under Code sections 2762, subdivision (e), and 2761, subdivision (d), in that he made false, grossly incorrect, or grossly inconsistent entries in hospital, patient, or other records pertaining to controlled substances and/or dangerous drugs, as described in paragraphs 19 and 20, above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 584536, issued to Richard James Amaro;
2. Ordering Richard James Amaro to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/26/09

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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